

EXHIBIT 13

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DECLARATION OF FULVIO F. CAJINA

JOSEPH JAMES GREER vs. CITY OF HAYWARD, ET AL.
Thomas Wayne Rogers, M.D. on 06/23/2016

JOSEPH JAMES GREER vs. CITY OF HAYWARD, ET AL.
UNITED STATES DISTRICT COURT
Thomas Wayne Rogers, M.D. on 06/23/2016

NORTHERN DISTRICT OF CALIFORNIA

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JOSEPH JAMES GREER,

Plaintiff,

vs.

Case Number:
3:15-CV-02307-WHO

CITY OF HAYWARD; BAY AREA RAPID
TRANSIT DISTRICT; MICHAEL CLARK;
JULIAN COSGRIFF; DANIEL
COVARRUBIAS; GUILLERMO DELIRA;
BRIAN LEWANDOWSKI; JEFF
LUPZINGER; NORM MCADAMS; SEAN
SPILLNER; BRANDON TONG
JON TOUGAS; RICK TRAN; DAVE
WATERS; BEN YARBROUGH; and
Does 1-10,

Defendants.

DEPOSITION OF

THOMAS WAYNE ROGERS, M.D.

DATE: JUNE 23, 2016 (THURSDAY)

TIME: 1:07 P.M.

LOCATION: CLAPP, MORONEY, BELLAGAMBA, VUCINICH
BEEMAN & SCHELEY
1111 Bayhill Drive, Suite 300
San Bruno, CA 94066

DEPOSITION MELLONY L. KNIGHT, CSR
REPORTER: Certified Shorthand Reporter, #8448

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1 witness in Forensic Pathology in various counties in
2 California?

3 A. Yes. JOSEPH JAMES GREER vs. CITY OF HAYWARD, ET AL.
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4 Q. If you could tell us what is Forensic
5 Pathology.

6 A. A pathologist performs autopsies. A Forensic
7 Pathologist performs autopsies under legal/medical
8 situations, particularly for a Coroner's Office.

9 Q. And so, you performed an autopsy in this case
10 on Mr. James Nathan Greer, correct?

11 A. Yes, the individual identified to me as such.

12 Q. Did you perform a forensic examination?

13 A. Yes, I did.

14 Q. I wanted to say forensic patho --

15 A. Forensic autopsy.

16 Q. Thank you.

17 Who asked you to do a forensic autopsy? How
18 did that come about?

19 A. The Coroner's Office of Alameda County.

20 Q. Okay. Do you work directly for them?

21 A. I work for them as an independent contractor,
22 so I'm not a County employee.

23 Q. In the context of examining Mr. Greer doing an
24 autopsy, how would you define -- what was a forensic
25 autopsy? What does that mean in terms of what you did

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1 here?

2 A. Well, it's an autopsy. And I think the term
3 "forensic" comes up is that it's being done in a
4 Coroner's Office, which is a different situation from a
5 hospital autopsy. But basically the autopsy is still
6 performed, and I would do the same type of autopsy that
7 I do in a hospital that I would do in a Coroner's
8 Office.

9 Q. Are you looking for the cause of death?

10 A. They ultimate purpose of an autopsy is to
11 determine a cause of death.

12 Q. You're not involved in the decision whether or
13 not there's going to be an autopsy or not, correct?

14 A. In the Coroner's Office as to whether a body is
15 autopsied or not, there is some discretion that comes
16 from the pathologist, but in an autopsy or case of this
17 nature an autopsy is routinely done.

18 Q. Why is it routinely done?

19 A. It's just a matter of routine in a case like
20 this that comes up where the individual's been involved
21 with the police jurisdiction. Ever since I've been in
22 the Coroner's Offices autopsies of this nature have been
23 done.

24 Q. Okay. And as I understand it -- here's what we
25 have, what I have in front of me from your file. I have

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1 a memorandum dated May 27, 2014, "Subject: Autopsy
2 protocol."

3 A. Yes. JOSEPH JAMES GREER vs. CITY OF HAYWARD, ET AL.
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4 Q. And I also have a document titled,
5 "Histological Examination."

6 A. Yes.

7 Q. And then I have 11 pages of a document that
8 says, "External Examination." I'm wondering if I'm
9 missing a page. It says page 2.

10 A. I can explain.

11 Q. Okay.

12 A. The Autopsy Protocol it starts with the page
13 that you're looking at now.

14 Q. It's Bates stamped 21, 221, JG00221 on the
15 right-hand side.

16 A. I don't have that. What number are you
17 referring to?

18 MR. ROONEY: Lower-right corner.

19 THE WITNESS: I don't have that on my report.
20 But the autopsy report or protocol consists of -- let's
21 say the first page or the title page is what you have,
22 and then it starts with page 2 and goes through page 12.

23 MR. VUCINICH: Q. And this Histological
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24 Examination, where does that fit in?
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25 A. That's something separate. I still consider it

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1 part of the autopsy, but just with the nature of the
2 office. The histology report is not incorporated into
3 the autopsy protocol.

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4 Q. Why not?

5 A. I don't know.

6 Q. Okay. So why don't we do this. Why don't we
7 attach as Defendants' Exhibit 2 the autopsy report which
8 starts with the memorandum we talked about and the 12
9 pages. It's a total of 12 pages, right?

10 A. Yes.

11 MR. VUCINICH: The first page is a memorandum,
12 on our end Bates stamped 221, and it goes to External
13 Examination page 12. We'll mark all that as
14 Defendants' 2.

15 (Defendants' Exhibit No. 2 was marked
16 for identification.)

17 MR. VUCINICH: What we're going to mark as
18 No. 3 is something you said that was separate and apart,
19 which is the Histological Examination.

20 THE WITNESS: Yes.

21 MR. VUCINICH: It's one page. It happens to be
22 our Bates stamp 219. I don't know why. We'll mark that
23 as Defendants' 3.

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24 (Defendants' Exhibit No. 3 was marked

25 for identification.)

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1 MR. VUCINICH: Q. I do not know if I pulled
2 this from your file or something I had in front of me.

3 This is the Toxicology Report.
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4 A. Yes, this is the Toxicology Report on the
5 toxicology examination run on this particular case, and
6 this is the form that the Coroner's Office receives back
7 from the toxicology laboratory. Now, the information is
8 entered into the computer system so if you look at the
9 case at a later date and pull up the toxicology results,
10 it's going to be in their computer system. That's what
11 this form is.

12 Q. And that's in your file?

13 A. Yes. It's with the material I have today.

14 Q. Good enough.

15 We'll mark this as Defendants' Exhibit No. 4.

16 (Defendants' Exhibit No. 4 was marked
17 for identification.)

18 MR. VUCINICH: Q. Let's see in your file what
19 I didn't mark.

20 A. We have the Histology. This is a form that
21 relates to the case. It kind of gives some actual
22 information on the case as to who the individual is. It
23 also indicates various specimens and things that were
24 retained at the time of the autopsy.

25 Q. So it's called Body Intake, page 1 of 1.

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1 Why don't we mark this as Defendants' 5.

2 (Defendants' Exhibit No. 5 was marked

3 for identification.) CITY OF HAYWARD, ET AL.
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4 MR. VUCINICH: Q. This is a copy of the
5 coroner's investigation report. It's a six-page
6 document. We'll mark this as Defendants' 6.

7 (Defendants' Exhibit No. 6 was marked
8 for identification.)

9 THE WITNESS: And the toxicology, I think we
10 have already dealt with that, relates to the actual
11 toxicology report from CVT.

12 MR. VUCINICH: It's a slightly different
13 document. We'll mark this as Defendants' 7.

14 (Defendants' Exhibit No. 7 was marked
15 for identification.)

16 THE WITNESS: And this is my C.V.

17 MR. VUCINICH: We already have that. So let me
18 get one thing.

19 THE REPORTER: Off the record?

20 MR. HALEY: Let's go off the record.

21 (Recess from 1:22 to 1:24 p.m.)

22 MR. VUCINICH: Q. So this autopsy was done
23 May 27, 2014, correct?

24 A. Yes.
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25 Q. Back then what were your procedures, if you had

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1 one, certain procedures, what were they for doing an
2 autopsy, Forensic Autopsy I should say?

3 A. I ~~just call it an autopsy~~ I do the same thing
4 or procedure on all cases. But with the autopsy the
5 body's on the table and an external examination is
6 performed. That means examining the body from head to
7 foot. Then an internal examination is performed. This
8 means removing the various major organs from the body
9 and examining them. Specimens are retained, and in this
10 case for toxicology. And also Histology, which means
11 looking at tissue under the microscope.

12 At some point after that a cause of death is
13 formulated. That basically is what the autopsy is.

14 Q. In order to determine --

15 You're looking for the cause of death, right?

16 A. Yes.

17 Q. And would you have had the Autopsy Report --
18 not the Autopsy Report. Sorry.

19 Would you have had the Toxicology Report before
20 you determined the cause of death?

21 A. Yes.

22 Q. And would you have done the Histology
23 Examination before you determined the cause of death?

24 A. Yes.

25 Q. The reason I ask that, I noticed the date, the

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1 signature is 6/19/14, but the memorandum is before that.
 2 That's why I was just wondering.

3 A. The memorandum on the first page says May 27th,
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 4 2014 and that is the date that the actual autopsy or
 5 let's say dissection was performed. Obviously at that
 6 time the blood sample is retained and sent to the
 7 laboratory. The results come back at a point later in
 8 time. That's why the Toxicology Report has a date after
 9 the autopsy itself.

10 Q. Okay. So let me ask you this. With respect to
 11 those documents entitled external -- well, these pages
 12 that they end with page 12.

13 A. Page 2?

14 Q. Page 2 through 12. What do you call these
 15 pages, these documents?

16 A. The thing in its totality, the 12 pages, is
 17 called the Autopsy Protocol or Autopsy Report.

18 Q. What did you do in this case to determine the
 19 cause of death? What did you do to determine the cause
 20 of death?

21 A. Okay. Well, I did the autopsy dissection and
 22 the findings, which are summarized on the first page of
 23 the report. This consisted of both the external and
 24 internal examination.
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25 Q. That first page of the report is Exhibit No. 2.

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1 JOSEPH JAMES GREER vs. CITY OF HAYWARD, ET AL.
2 A. I don't remember in my 16, 17, 18 years and years
3 of ever going that far.

4 Q. And in looking at your autopsy finding report,
5 specifically lines 18 through 24 at the bottom of
6 page 2 --

7 A. Okay.

8 Q. -- it indicates small amounts of blood were
9 found on both arms and scant amount of blood was found
10 on both sides of his face.

11 A. Yes.

12 Q. Was any determination made to determine who's
13 blood that was?

14 A. No.

15 Q. Then starting at line 44 and continuing through
16 line 75 your report refers to various abrasions and
17 contusions throughout Mr. Greer's body, correct?

18 A. Yes.

19 Q. Was any determination made as to how recent
20 those abrasions and contusions were?

21 A. To the extent -- well, let me say that these
22 all looked like recent injuries to me. And by recent I
23 mean that relative to the time the individual died they
24 could have occurred outwards within three days of him
25 dying. Now, it's not possible to take injuries and
define how old they were beyond those parameters, it

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1 just can't be done

2 Q. But what they say on T.V. is not right?

3 A. Let's say they can do it on television but I
4 can't.

5 Q. Exactly.

6 A. Just to elaborate further, they could have
7 occurred at the time of the incident. I have no way of
8 knowing if one of these abrasions that he fell and got
9 it a day early. I don't know.

10 Q. From the time of the incident with the police
11 up until 72 hours before?

12 A. Not the time of the incident with the police,
13 because he did linger on awhile in the hospital, if you
14 follow what I'm saying.

15 Q. Okay. Let me rephrase it then.

16 So these abrasions or contusions anywhere from
17 the time of death up until 72 hours before his death.

18 A. That's correct. And that 72 hours is kind of a
19 nebulous twilight. I mean there can be exceptions
20 around that.

21 Q. A little plus or minus?

22 A. Yes.

23 Q. That would be the case for all of the abrasions
24 and contusions found in your report between lines 44 and
25 75?

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